United Nations S/2012/349

Security Council

Distr.: General
22 May 2012

Original: English

Letter dated 22 May 2012 from the President of the International Criminal Tribunal for Rwanda addressed to the President of the Security Council

I have the honour to transmit herewith the assessments of the President and the Prosecutor of the International Criminal Tribunal for Rwanda on the implementation of the completion strategy of the Tribunal, pursuant to Security Council resolution 1534 (2004), as at 11 May 2012 (see enclosure).

I should be grateful if you would transmit the enclosed report to the members of the Security Council.

(*Signed*) Vagn **Joensen**
President

12-34953 (E) 060612

Please recycle

Report on the completion strategy of the International Criminal Tribunal for Rwanda (as at 11 May 2012)

[Original: English and French]

Contents

		Page
	Introduction	3
I.	Activities in Chambers	4
	A. Activities at first instance	4
	1. Judgements (annex I.A)	5
	2. Cases in judgement drafting phase (annex I.B)	5
	3. Ongoing trial (annex I.C)	6
	4. Referrals pursuant to rule 11 bis for apprehended accused (annex II)	6
	5. Other work in the Trial Chambers	7
	6. Status of fugitives (annex III)	9
	B. Activities at the Appeals Chamber	10
II.	Measures implementing the completion strategy	12
	A. Judicial calendar and management of proceedings	12
	B. Judges and staff management	13
	1. Judges	13
	2. Staff management and budget	13
	C. Work of the Office of the Prosecutor	14
	1. Workload	14
	2. Cooperation of the Office of the Prosecutor with Member States	16
	3. Staffing	17
	D. Cooperation between Member States and the Tribunal	18
	E. Outreach, capacity-building	19
	F. Residual Mechanism	20
III.	Conclusion and updated prognosis regarding the implementation of the completion strategy	21
Annexes		
I.A	Trial judgements delivered as at 11 May 2012 (52 judgements concerning 72 accused)	23
I.B	Cases where trial judgement delivery is awaited: 2 cases concerning 2 accused	27
I.C	Ongoing trials: 1 case concerning 1 accused	28
II.	Referrals pursuant to rule 11 bis for apprehended accused: 4 cases concerning accused — 3 referred, 1 pending	29
III.	Fugitives indicted by the Tribunal	30

Introduction

1. In 2003, the International Criminal Tribunal for Rwanda ("the Tribunal") formalized a strategy (the "completion strategy") to achieve the objectives of completing investigations by the end of 2004, all trial activities at first instance by the end of 2008, and all of its work in 2010, in accordance with Security Council resolution 1503 (2003).

2. The present report, in conjunction with previous submissions to the Security Council pursuant to resolution 1534 (2004), provides an overview of the Tribunal's progress to date in implementing the completion strategy, which has been continuously updated and developed since 2003.[1]

3. As at 11 May 2012, the Tribunal has completed the work at the trial level with respect to 83 of the 93 accused. This includes 52 first-instance judgements involving 72 accused, six referrals to national jurisdictions (three apprehended accused and three fugitive cases), two withdrawn indictments, and three indictees who died prior to or in the course of the trial.[2] Appellate proceedings have been concluded in respect of 43 persons, and two of the three remaining trial judgements will be delivered prior to 30 June 2012.

4. The Tribunal referred its first case of an accused in its custody to the Republic of Rwanda and created a robust monitoring mechanism for referred cases. Early in June 2012, a decision on the request for referral to Rwanda of the one remaining case where the accused is in pretrial custody will be delivered. If the case is referred, the Tribunal will have only one trial judgement remaining to be delivered in the second half of 2012. If the case is not referred, the trial will commence before the Tribunal.

5. While nine accused persons indicted by the Tribunal remain at large, as noted above three of these cases have been referred to Rwanda for prosecution. Of the remaining six, two applications for referral of the case to Rwanda are pending, and a further referral application is expected imminently. The remaining three fugitives, when arrested, will be tried by the International Residual Mechanism for Criminal Tribunals, which will also be responsible for monitoring all referred cases upon its commencement on 1 July 2012.

---

[1] See the reports submitted to the United Nations on 14 July 2003 and 29 September 2003, in connection with General Assembly resolution 57/289 and the Tribunal's request to increase the number of ad litem judges sitting "at any one time". Completion strategy reports were submitted to the President of the Security Council on 30 April 2004, 19 November 2004, 23 May 2005, 30 November 2005, 29 May 2006, 8 December 2006, 31 May 2007, 20 November 2007, 13 May 2008, 21 November 2008, 14 May 2009, 9 November 2009, 25 May 2010, 1 November 2010, 12 May 2011 and 4 November 2011.

[2] In the completion strategy report of 4 November 2011, the number of accused who died prior to completion of their trial was misstated as two, causing the total number of accused to be erroneously stated as 92.

I. Activities in Chambers

A. Activities at first instance

6. This report covers the period from 5 November 2011 to 11 May 2012 (reporting period). At the beginning of this reporting period, the remaining workload of the Tribunal to be completed included five trial judgements with respect to six accused, a case at pretrial stage where a decision on an application for referral was pending, and nine fugitives remained at large. During the reporting period, the Trial Chambers of the Tribunal have rendered one judgement in a multi-accused case and one judgement in a single-accused case,[3] and three cases of fugitive accused were referred to Rwanda.[4] As at 11 May 2012, judgements remain to be delivered in three ongoing cases, and one application for referral to Rwanda is pending in the only case in pretrial phase. Two of the three remaining trial judgements will be delivered on 31 May and 19 June 2012,[5] and the final ongoing trial is expected to be completed in the second half of 2012.[6] The application for referral to Rwanda of the one remaining case of an accused in pre-trial custody, Bernard Munyagishari, is expected to be decided early in June 2012.[7] Therefore, all trial work is now expected to finish by the end of 2012 if the *Munyagishari* case is referred to Rwanda and if no contempt/false testimony arrests are made.[8] If the *Munyagishari* case is not referred, the trial would be expected to commence by late 2012 to early 2013 and to be completed near the end of 2013.

7. As detailed below, of the four judgements projected in the last completion strategy report for delivery in the course of this reporting period, two were rendered before the end of 2011 as projected. The other two will be completed before 30 June 2012. The major challenge for the coming months remains the completion of the final cases, transition to the Residual Mechanism, and the review of witness protection orders in preparation for the handover to the Residual Mechanism amid the continued departure of key staff.

8. Despite persistent staffing challenges and delays due to unforeseeable fair trial rights issues, this report shows that the Tribunal is close to completion of all trial work as projected in the November 2011 completion strategy report, as only one ongoing case will spill over into the second half of 2012 and all trial work is now projected to be completed by the end of 2012 if the Munyagishari case is referred and no contempt/false testimony arrests are made.

---

[3] The trial judgements were delivered in *Ndahimana* and *Karemera et al.* Further explanation is provided in paragraphs 9 and 10.

[4] *Kayishema*, *Sikubwabo* and *Ntaganzwa* cases. Further explanation is provided in paragraphs 28-30.

[5] The *Nzabonimana* and *Nizeyimana* cases, respectively. Further explanation is provided in paragraphs 11 and 12.

[6] *The Prosecutor v. Augustin Ngirabatware*. Further explanation is provided in paragraph 13.

[7] Further explanation is provided in paragraph 15.

[8] There are currently three cases where witnesses are accused of contempt of court or of providing false testimony where indictments are already confirmed. Bernard Munyagishari, who is in the Tribunal's custody awaiting decision on a referral application, was arrested prior to 1 July 2011. Therefore, according to articles 1 and 4 of the transitional arrangements annexed to Security Council resolution 1966 (2010), if the *Munyagishari* case is not referred and if the contempt accused are arrested, all of these cases would be tried by the Tribunal, not the Residual Mechanism.

1. Judgements (annex I.A)

9. On 17 November 2011, a section of Trial Chamber III composed of Judges Arrey, presiding, Tuzmukhamedov and Akay rendered oral judgement in the *Ndahimana* case, sentencing Grégoire Ndahimana to imprisonment for 15 years after finding him guilty of genocide and extermination as a crime against humanity. Ndahimana was the *bourgmestre* of Kivumu *commune* in Kibuye *préfecture*. It was alleged by the prosecution that he planned the massacres of Tutsis at Nyange Church in his *commune* between 14 and 16 April 1994. Ndahimana's trial commenced on 6 September 2010 and concluded on 21 September 2011. Fifteen witnesses testified for the prosecution and 30 witnesses testified for the defence. The written judgement was filed on 18 January 2012.

10. On 21 December 2011, a section of Trial Chamber III composed of Judges Byron, presiding, Kam and Joensen, rendered oral judgement in the *Karemera et al.* case against Édouard Karemera, the former Vice-President of the Mouvement républicain national pour le développement et la démocratie (MRND) and Minister of the Interior of the Interim Government, and Matthieu Ngirumpatse, the National Party Chairman of MRND and Chairman of its Executive Bureau. Karemera and Ngirumpatse were convicted of genocide, direct and public incitement to commit genocide, extermination and rapes and sexual assaults as crimes against humanity, and murder as causing violence to life, health and physical or mental well-being as serious violations of article 3 common to the Geneva Conventions and Additional Protocol II. The accused were found guilty of conspiracy to commit genocide but the Chamber found that the full criminality of the accused in this regard was accounted for by a conviction for genocide and, accordingly, concluded that a further conviction for conspiracy would be duplicative and unfair. Each was sentenced to life imprisonment. The trial spanned 374 trial days, during which 153 witnesses testified, 114 witness statements were admitted, and over 20,000 pages of exhibits were entered into evidence. The written judgement was filed on 2 February 2012.

2. Cases in judgement drafting phase (annex I.B)

11. A section of Trial Chamber III, composed of Judges Bossa, presiding, Tuzmukhamedov and Rajohnson, continued deliberations and judgement drafting during the reporting period in the case against Callixte Nzabonimana, the former Minister of Youth. The case opened on 9 November 2009 and the evidence phase was initially closed on 6 May 2011. The case was reopened to allow for the evidence of an additional defence witness, who was heard on 12 September 2011, and the Chamber heard closing arguments on 20 and 21 October 2011. The indictment includes approximately 30 separate factual allegations against the accused, each alleging a serious crime. During the reporting period, the Trial Chamber issued 12 decisions and orders. Due to ongoing litigation in the case, the complexity of the case, and judges sitting in other cases, judgement delivery is now scheduled for 31 May 2012. In parallel with this case, Judge Bossa sat on the bench in the *Butare* case and currently also sits on the *Ngirabatware* bench, Judge Rajohnson also sits on the *Ngirabatware* bench, and Judge Tuzmukhamedov was a member of the bench in *Ndahimana*.

12. Another section of Trial Chamber III, composed of Judges Muthoga, presiding, Park and Fremr, began judgement drafting during the reporting period in the case

against Ildephonse Nizeyimana, former second-in-command in charge of intelligence and military operations at the École des sous-officiers during 1994. The case commenced on 17 January 2011. In total, 84 witnesses were heard over the course of 54 trial days and six written statements were admitted pursuant to rule 92 bis. The Chamber conducted a site visit from 3 to 9 October 2011, which marked the close of the evidentiary phase of the case. The parties simultaneously submitted closing briefs on 8 November 2011, and the Chamber heard closing arguments on 7 December 2011. The Chamber issued nine decisions during the reporting period. A total of 127 written decisions have been issued overall. Due to the considerable size and complexity of the case, as well as staff turnover, judgement delivery has been slightly delayed and is now scheduled for 19 June 2012. Furthermore, parallel obligations of judges have slowed judgement deliberations. Specifically, Judge Muthoga is presiding concurrently over the Prosecutor's pending request to refer the *Munyagishari* case to Rwanda, and participated in the 26 March 2012 decision of the Referral Chamber to transfer the *Sikubwabo* case to Rwanda. Judge Park was a member of the referral bench that issued the 9 May 2012 decision to transfer the *Ntaganwaza* case to Rwanda, and also concurrently sits on the bench deciding the referral application in the *Munyagishari* case. Judge Park is currently on a bench seized of the request by former defendant Protais Zigiranyirazo for compensation from alleged violations of fundamental rights. Finally, an unexpected medical absence has also delayed the judgement deliberations process.

3. Ongoing trial (annex I.C)

13. A section of Trial Chamber II, composed of Judges Sekule, presiding, Bossa and Rajohnson, continued hearing evidence in the case against Augustin Ngirabatware, the Minister of Planning in the Rwandan Government during 1994. The defence case, which initially commenced on 16 November 2010, resumed during the reporting period on 30 January 2012 and continued until it closed on 22 February 2012. The prosecution case-in-rebuttal commenced on 6 March 2012, and closed on 2 April 2012. Over the course of 12 trial days, the prosecution called six rebuttal witnesses. The defence has filed a motion for rejoinder evidence which is currently pending before the Chamber. A site visit is scheduled for 21 to 25 May 2012. Closing briefs are to be filed by 14 May 2012 and closing arguments are currently scheduled for 18 and 19 June 2012, although litigation is pending which could delay the proceedings. During the reporting period, the Chamber rendered 30 decisions and orders. Due in part to the unanticipated length of the evidence phase, including rebuttal evidence and a pending motion for rejoinder evidence, the number of motions filed by the parties in the case having a direct impact on the proceedings, as well as other judicial commitments of those involved in this trial, judgement delivery is now anticipated in the second half of 2012. Judge Bossa is also presiding over the *Nzabonimana* case, which is currently in the judgement drafting phase, and Judge Rajohnson also sits on the bench in the *Nzabonimana* case.

4. Referrals pursuant to rule 11 bis for apprehended accused (annex II)

14. On 19 April 2012, Jean Uwinkindi became the first accused in the custody of the Tribunal to have been transferred to Rwanda for trial under rule 11 bis of the Rules of Procedure and Evidence after the Appeals Chamber confirmed the referral of the case on 16 December 2011. In line with the decisions of the Referral Chamber

and Appeals Chamber, the President ordered that the African Commission for Human and People's Rights or another organization[9] should be appointed to undertake the monitoring of the *Uwinkindi* trial in Rwanda with the assistance of legal officers from the Tribunal who have commenced monitoring duties while the appointment of the organization is finalized.

15. On 13 October 2011, Trial Chamber III, composed of Judges Khan, presiding, Muthoga and Park was designated to hear the referral request in the case against Bernard Munyagishari, which is currently in the pretrial phase. Through an order of 15 February 2012, the bench was recomposed as Judges Muthoga, presiding, Park and Kam.[10] The prosecution filed its request for referral on 11 September 2011. The Republic of Rwanda and the Kigali Bar Association filed amicus curiae briefs in support of the prosecution request on 19 and 23 January 2012, respectively. The defence filed its opposition to the referral on 1 February 2012, submitting an addendum the following day. Oral arguments were heard from the parties on 12 April 2012. During the reporting period, 12 written decisions and orders have been issued. A decision on the request for referral is expected to be delivered by the Trial Chamber early in June 2012. The appeal, if any, would be expected to be decided before the end of 2012. If not referred, the trial would be expected to commence early in 2013 and to be completed by end of 2013 or early in 2014.

5. Other work in the Trial Chambers

Rescission of protective measures

16. In order to assist the coordinated transition of the victims and witnesses protection function to the Residual Mechanism, and in compliance with paragraph 259 (l) (ii) of S/2009/258, the Tribunal has been considering ways to review witness protection orders with a view to withdrawing or varying those that are no longer necessary. The Trial Chamber has issued several orders for rescission of protective measures where witnesses are deceased and have no remaining family members for whom protective measures may also be required. The Registry, through its Witness and Victims Support Section, remains responsible for submitting further requests for the review of protective measures for witnesses falling under identified categories.

Special depositions pursuant to rule 71 bis

17. In February 2011, the Prosecutor filed motions for the preservation of evidence for a future trial in the cases of three fugitive accused who will be tried before the Residual Mechanism when arrested: Félicien Kabuga, Protais Mpiranya and Augustin Bizimana. In each case, the same Trial Chamber designated to consider the motion pursuant to rule 71 bis, composed of Judges Byron, presiding, Kam and Joensen, authorized the preservation of evidence by special depositions. Judges Joensen, Arrey and Kam were subsequently appointed as single judges to preside over the special deposition proceedings in the *Kabuga*, *Mpiranya* and *Bizimana* cases, respectively.

---

[9] Due to ongoing hurdles in the implementation of an agreement for monitoring by the African Commission for Human and People's Rights, the President also left open the possibility of several other regional organizations that could be appointed as monitors. For further details, see *The Prosecutor v. Jean Uwinkindi*, Case No. ICTR-01-75-R11*bis*, Decision on the Monitoring Arrangements for the Trial of Jean Uwinkindi in the Republic of Rwanda (P), 5 April 2012.

[10] The bench was recomposed due to the redeployment of Judge Khan to the Appeals Chamber.

18. The prosecution concluded the preservation of its evidence in the special deposition proceedings in the *Kabuga* case on 27 October 2011. On 13 October 2011, the President designated a Chamber composed of Judges Joensen, presiding, Kam and Akay to adjudicate upon duty counsel's motion for preservation of defence evidence. By order of 26 January 2012, that bench was recomposed as Judges Joensen, presiding, Arrey and Kam.[11] Defence evidence was preserved beginning on 23 April 2012. At the completion of defence evidence, six witnesses are expected to have had their evidence preserved. As at 11 May 2012, four witnesses have been heard, and the remaining two are expected to appear on 21 and 22 May 2012.

19. The special deposition proceedings in the *Mpiranya* case began on 19 October 2011 with 12 prosecution witnesses heard by Judge Arrey in eight days. On 16 February 2012, a section of Trial Chamber III composed of Judges Arrey, presiding, Joensen and Kam granted the motion for preservation of evidence on behalf of the accused. The nine witnesses presented by duty counsel to preserve their evidence were heard from 16 to 25 April 2012 before Judge Arrey.

20. In the *Bizimana* case, prosecution preservation of evidence proceedings began on 21 November 2011 and concluded on 24 November 2011 after six witnesses were heard. Preservation of evidence by duty counsel on behalf of Bizimana is scheduled to begin on 14 May 2012 and will be completed before the end of May 2012.

21. Therefore, all preservation of evidence proceedings under rule 71 bis will be concluded by the end of May 2012.

Claim for compensation

22. On 24 February 2012, Protais Zigiranyirazo, a former accused, filed an application before a bench composed of Judges Arrey, presiding, Park and Kam seeking US$ 1,006,550 in compensation for his eight-and-a-half-year detention before his eventual acquittal by the Appeals Chamber. He also requested that the Tribunal issue an order pursuant to article 28 of the Statute compelling his relocation to Belgium. The Registrar and Prosecution filed submissions on 18 April 2012. The appellant filed a reply on 6 May 2012. The Chamber is expected to issue its decision in June 2012.

Decisions of the President

23. On 8 February 2012, the President granted the early release of Juvénal Rugambarara with immediate effect, making him the second person to be granted early release by the Tribunal. The President noted that Rugambarara had served three fourths of the sentence imposed upon him and demonstrated rehabilitation.

24. On 6 March 2012, the President granted the early release request of Tharcisse Muvunyi with immediate effect. The President noted that Muvunyi had served more than three fourths of his sentence and that in the two previous requests for early release granted by the Tribunal, the prisoners had served sentences that were less than or equal to Muvunyi's sentence for similar crimes sentenced at the lesser end of the spectrum.

[11] The bench was recomposed due to the departure of Judge Akay, who demitted office on 31 December 2011.

25. During the reporting period the President ordered the transfer of five detainees from the United Nations Detention Facility in Arusha to Member States to serve the sentences imposed by the Tribunal. Of these, one detainee has been transferred to a Member State for enforcement of sentence.

26. Two prisoners were transferred to Benin for enforcement of sentences during the reporting period as ordered in decisions issued by the President in previous reporting periods.[12]

6. Status of fugitives (annex III)

27. At the beginning of the reporting period, the Tribunal had nine outstanding fugitives. Of these, the Prosecutor indicated that referral applications were expected to be filed for six accused, the remaining three being slated for trial by the Residual Mechanism. As described in further detail below, referral has been granted in three cases to date, two referral motions are pending before the Trial Chamber, and one referral motion is expected shortly.

28. On 22 February 2012, a Referral Chamber designated under rule 11 bis composed of Judges Khan, presiding, Joensen and Kam referred the case of the fugitive accused Fulgence Kayishema to Rwanda for trial. Kayishema was the inspector of judicial police at Kivumu *commune* in Kibuye *préfecture*. He has been charged with genocide, or, in the alternative complicity in genocide, as well as conspiracy to commit genocide, and extermination as a crime against humanity. On 4 April 2012, the President issued a warrant of arrest and order for transfer of the fugitive accused to Rwanda.

29. On 26 March 2012, a Referral Chamber designated under rule 11 bis composed of Judges Joensen, presiding, Muthoga and Kam referred the case of the fugitive accused Charles Sikubwabo to Rwanda for trial. Sikubwabo was the *bourgmestre* of Gishyita *commune* in Kibuye *préfecture*. He has been charged with genocide, or, in the alternative complicity in genocide, as well as conspiracy to commit genocide and crimes against humanity. On 30 April 2012 the President issued a warrant of arrest and order for transfer of the fugitive accused to Rwanda.

30. On 8 May 2012, a Referral Chamber designated under rule 11 bis composed of Judges Joensen, presiding, Arrey and Park referred the case of the fugitive accused Ladislas Ntaganzwa to Rwanda for trial. Ntaganzwa was *bourgmestre* of Nyakizu *commune* in Butare *préfecture*. He has been charged with genocide, complicity in genocide, direct and public incitement to commit genocide, crimes against humanity and violations of article 3 common to the Geneva Conventions and Additional Protocol II thereto. On 9 May 2012, the President issued a warrant of arrest and order for transfer of the fugitive accused to Rwanda.

31. On 10 May 2012, the prosecution filed requests for transfer in the cases of fugitive accused *Ryandikayo* and *Ndimbati*. Referral chambers composed of Judges Joensen, presiding, Arrey and Kam were appointed the same day. In the case of fugitive accused *Munyarugarama*, the prosecution filed a motion to amend the indictment on 11 May 2012, and is expected to file for referral of the fugitive's case to Rwanda imminently.

[12] See paragraph 77 for additional details.

32. As detailed in paragraphs 18 to 21, evidence preservation occurred during the reporting period in the cases of the three remaining fugitives — Bizimana, Mpiranya and Kabuga, who will be tried by the Residual Mechanism when arrested.

33. In line with the transitional arrangements annexed to Security Council resolution 1966 (2010), the Residual Mechanism will take over judicial oversight of the monitoring of all referred cases from 1 July 2012.

B. Activities at the Appeals Chamber

34. As at 11 May 2012, appellate proceedings have been concluded in respect of 43 persons. During the reporting period, the Appeals Chamber delivered five appeal judgements concerning six persons, in the *Ntawukulilyayo*, *Bagosora & Nsengiyumva*, *Ntabakuze*, *Kanyarukiga* and *Hategekimana* cases. The Appeals Chamber also rendered a decision on a referral appeal, three decisions disposing of interlocutory appeals, five decisions concerning post-appeal requests, and 60 pre-appeal orders and decisions.

35. Four appeal judgements concerning four persons are to be delivered in 2012, three appeals concerning seven persons and the possible appeals concerning three persons in *Nzabonimana*, *Nizeyimana* and *Ngirabatware*, if referred to the Appeals Chamber, are expected to be disposed of by the end of 2013, and the remaining two appeal judgements concerning eight persons will be delivered in 2014.

36. In its judgement of 14 December 2011, the Appeals Chamber affirmed Dominique Ntawukulilyayo's conviction for aiding and abetting genocide while reversing his conviction for ordering genocide. The Appeals Chamber set aside his sentence of 25 years of imprisonment and imposed a sentence of 20 years' imprisonment.

37. On the same day, the Appeals Chamber issued its judgement in the *Bagosora & Nsengiyumva* case. The Appeals Chamber affirmed Théoneste Bagosora's convictions for genocide, crimes against humanity (murder, extermination, persecution, rape and other inhumane acts), and serious violations of article 3 common to the Geneva Conventions and of Additional Protocol II (violence to life and outrages upon personal dignity). However, it reversed his convictions for certain killings and set aside the finding that he was responsible for ordering certain crimes while finding him liable as a superior instead. In addition, the Appeals Chamber reversed a number of Bagosora's convictions for murder as a crime against humanity and for other inhumane acts as a crime against humanity. As a consequence, the Appeals Chamber set aside Bagosora's sentence of life imprisonment and imposed a sentence of 35 years' imprisonment. In respect of Anatole Nsengiyumva, the Appeals Chamber affirmed his convictions for genocide, crimes against humanity (extermination and persecution), and serious violations of article 3 common to the Geneva Conventions and of Additional Protocol II (violence to life) in relation to certain killings. However, the Appeals Chamber reversed his convictions for certain killings as well as his convictions for murder as a crime against humanity. In addition, the Appeals Chamber set aside the finding that Nsengiyumva was responsible for ordering certain killings and found him liable as a superior instead. The Appeals Chamber considered that the reversal of nearly all of Nsengiyumva's convictions called for a revision of his life sentence, and entered a new sentence of 15 years of imprisonment.

38. In its judgement of 8 May 2012, the Appeals Chamber affirmed Aloys Ntabakuze's convictions for genocide, extermination and persecution as crimes against humanity, as well as violence to life as a serious violation of article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to article 6 (3) of the statute for certain killings. However, the Appeals Chamber reversed Ntabakuze's convictions for preventing refugees from seeking sanctuary and for certain killings. The Appeals Chamber also reversed Ntabakuze's convictions for murder as a crime against humanity and set aside the finding of the Trial Chamber that Ntabakuze is responsible for the commission of crimes by militiamen. The Appeals Chamber considered that the reversal of some of Ntabakuze's convictions called for a revision of his life sentence and entered a new sentence of 35 years of imprisonment.

39. On the same day, the Appeals Chamber also dismissed the appeals in the case of Gaspard Kanyarukiga, affirming in its judgement Kanyarukiga's convictions for planning genocide and extermination as a crime against humanity as well as the sentence of 30 years of imprisonment imposed by the Trial Chamber.

40. On 8 May 2012, the Appeals Chamber also issued its judgement in the Ildephonse Hategekimana case. The Appeals Chamber dismissed Hategekimana's appeal against his convictions for genocide and for murder and rape as crimes against humanity, and affirmed his sentence of life imprisonment.

Pending appeals from judgement: six cases

41. The trial judgement in the *Gatete* case was rendered on 29 March 2011 and issued in writing on 31 March 2011. Both parties filed notices of appeal in May 2011, the briefing was completed in December 2011, the appeals were heard on 7 May 2012, and the deliberations are in progress.

42. The trial judgement in the *Ndindiliyimana et al. (Military II)* case was rendered on 17 May 2011 and issued in writing on 17 June 2011. All five parties appealed. The last notice of appeal was filed in January 2012 and the briefing is in progress.

43. The trial judgement in the *Nyiramasuhuko et al. (Butare)* case was rendered on 24 June 2011 and issued in writing on 14 July 2011. All seven parties appealed. The last notice of appeal was filed in April 2012 and the briefing is in progress.

44. The trial judgement in the *Mugenzi & Mugiraneza (Government II)* case was rendered on 30 September 2011 and issued in writing on 19 October 2011. Two of the parties filed their notices of appeal in November 2011 and the briefing is in progress.

45. The trial judgement in the *Ndahimana* case was rendered on 17 November 2011 and issued in writing on 18 January 2012. Both parties filed their notices of appeal in February 2012 and the briefing is in progress.

46. The trial judgement in the *Karemera et al.* case was rendered on 21 December 2011 and issued in writing on 2 February 2012. All three parties filed their notices of appeal in March 2012 and the briefing is in progress.

II. Measures implementing the completion strategy

47. This section supplements prior reports and highlights essential elements of the Tribunal's efforts to comply with its completion strategy.

A. Judicial calendar and management of proceedings

48. During the reporting period one single-accused judgement and the final multi-accused trial judgement were delivered as projected prior to the end of 2011,[13] and the remaining two single-accused trial judgements projected to be delivered in the reporting period will be rendered prior to 30 June 2012. Despite minor setbacks, the Tribunal has continued to make progress towards the completion of all trial work, and only a small amount of that work will remain beyond 30 June 2012. Continued premature staff departures in Chambers combined with unanticipated litigation continued to challenge the ability of the judgement drafting and trial teams to complete their work as projected. However, in both cases projected for delivery in this reporting period where judgement has slipped beyond the projections in the last completion strategy report, trials will still be completed in the first half of 2012, meaning that if the *Munyagishari* case is referred and there are no contempt/false testimony arrests, all but one trial judgement will be completed by that time. Due to fair trial implications including requirements to hear additional evidence, the *Ngirabatware* trial judgement will now be delivered in the second half of 2012.[14]

49. The Tribunal continues to devise solutions to minimize the challenges that it faces with respect to staff retention, and remains committed to the completion strategy. All organs are working hard to complete the Tribunal's mandate efficiently and expeditiously. However, as was the case in the last reporting period, during each month of this reporting period, key staff members departed from the Tribunal, many prior to the expiry of their contracts.

50. There remains only a small amount of work to be completed by the Trial Chamber in order to begin to hand over judicial functions to the Residual Mechanism. As detailed in the previous section, for the first time in its history, the Tribunal has referred a case to Rwanda pursuant to rule 11 bis. Three fugitive cases have been referred to Rwanda as well, and a referral motion in the case of the only remaining accused in the custody of the Tribunal awaiting trial will be decided before 30 June 2012. The Prosecutor has filed requests for the referral of a further two fugitive cases to Rwanda, which are expected to be decided before 30 June 2012. Evidence preservation hearings pursuant to rule 71 bis will all be completed before the end of May 2012.

51. It is vital that the Tribunal work to retain necessary staff until the expiry of contracts in line with downsizing plans in its remaining time so that it may complete all necessary work within current projections.

---

[13] *Ndahimana* and *Karemera et al.* cases.

[14] Further explanation of the *Ngirabatware* case is provided in paragraph 13.

B. Judges and staff management

1. Judges

52. Currently, two permanent judges and eight ad litem judges are serving the Tribunal at the trial level.

53. During the reporting period, Judges Byron and Akay completed their service at the Tribunal and Judge Khan was redeployed to the Appeals Chamber. Five of the remaining eight ad litem judges will demit office when the *Nzabonimana* and *Nizeyimana* judgements are delivered on 31 May and 19 June 2012, respectively. Both of the remaining permanent trial judges will be assigned to the Appeals Chamber after the completion of their trial work. One such assignment will occur in June 2012 upon the completion of the *Nzabonimana* case. Therefore, extensions are required for only four judges: the one remaining permanent judge and two ad litem judges on the *Ngirabatware* case, and the President.

54. Judge Vagn Joensen and Judge Florence Rita Arrey were elected as President and Vice-President, respectively, of the Tribunal in February 2012. The Vice-President will complete her duties at the Tribunal and will demit office on 30 June 2012. Due to statutory requirements and continued duties beyond the end of trials, the President is expected to continue until the completion of the appeals and transition of all judicial functions to the Residual Mechanism.

2. Staff management and budget

55. As indicated in earlier reports, staff recruitment, retention and separation will continue to be major challenges throughout the completion process. Where recruitment is required, the Tribunal has difficulty attracting suitably qualified candidates given that the work of the Tribunal will be concluded by 2014 and the limited contractual security that can therefore be provided. The Tribunal continues to experience difficulties in retaining experienced staff who, given the lack of financial incentives to stay with the Tribunal to complete their work, few possibilities for upward mobility, and their reduced contractual security, have been leaving the Tribunal to accept offers of employment elsewhere, either within or outside the United Nations system. This may adversely affect the successful and timely implementation of the completion strategy.

56. The downsizing process that began in 2008-2009 will continue in 2012-2013 with the proposed abolition of 212 posts, representing 34 per cent of the authorized 2010-2011 level. A mechanism designed to identify which individual staff members are to be separated as part of the downsizing process in a fair and transparent manner has been put in place in consultation with the Staff Association. However, the workload associated with this exercise is having an impact on managers' ability to perform their regular functions, which consequently affects programme delivery. This is compounded by the fact that the reduction in staff is causing managers and staff to be required to perform an increasing range of functions.

57. The Tribunal continues to receive the support of the Department of Management, especially at the Office of the Controller and the Office of Human Resources Management, to explore and adopt additional measures and a common strategy to address the challenges of downsizing and separation of staff, including

the foreseen establishment of the Outplacement Office to assist the Tribunal staff who have applied for various positions in the United Nations.

C. Work of the Office of the Prosecutor

58. The Office of the Prosecutor has continued to focus its efforts on the completion of ongoing trials and appeals, tracking the remaining fugitives, updating the files of fugitives, pursuing the referral of cases to national jurisdictions and conducting proceedings for the preservation of evidence in respect of three high-level fugitives, Félicien Kabuga, Protais Mpiranya and Augustin Bizimana. Additionally, and in the light of Security Council resolution 1966 (2010), the Office of the Prosecutor has focused on transitional activities that will ensure a smooth transfer of functions to the Residual Mechanism, the Arusha Branch of which commences on 1 July 2012.

1. Workload

59. During this reporting period, the Prosecution Division completed its work with respect to the trials of five accused in the *Karemera et al.*, *Ndahimana*, *Nzabonimana* and *Nizeyimana* cases. Judgements have already been rendered in respect of three of the five accused, and the remaining two are expected before 30 June 2012. With respect to the only remaining ongoing trial, that of *Ngirabatware*, closing arguments are scheduled for 18 and 19 June 2012.

60. In addition, the Office of the Prosecutor has succeeded in obtaining the referral, pursuant to rule 11 bis, of four cases to Rwanda for trial. This development marks a major step towards the fulfilment of the completion strategy. On 28 June 2011, the Trial Chamber allowed the Prosecutor's application for the referral of Jean Uwinkindi's case to Rwanda; the Appeals Chamber affirmed the Trial Chamber's referral order by decision dated 16 December 2011. The accused was physically transferred to Rwanda on 19 April 2012 and is currently awaiting trial before Rwanda's High Court. The Prosecutor also successfully secured the referral of three fugitive cases to Rwanda for trial: Fulgence Kayishema's case was referred by order dated 22 February 2012, while Charles Sikubwabo's case was referred by order dated 26 March 2012, and Ladislas Ntaganzwa's case was referred by order dated 8 May 2012 but remains subject to a possible appeal. Two additional applications for referral are currently pending before the Trial Chambers, and a third will be filed upon confirmation of the amended indictment. On 12 April 2012, the Trial Chamber held an oral hearing on the Prosecutor's request for the referral of the case of Bernard Munyagishari, who was apprehended in 2011. A decision at first instance on this request is anticipated in June 2012. An appeal by either the defence or prosecution is likely to be filed. If the Prosecutor's request for referral is successful, *Munyagishari's* case will be tried in Rwanda; if it is denied, the case will have to be tried by the Tribunal. The two other pending requests relate to the cases of fugitives Aloys Ndimbati and Charles Ryandikayo. Both requests were filed on 10 May 2012 and scheduling orders were issued on 11 May 2012, requiring that any opposition be filed within 14 days of duty counsel's appointment. It is therefore possible that both of these requests will be resolved before 30 June 2012. Two other cases (Laurent Bucyibaruta and Wenceslas Munyeshyaka) were referred to France in November 2007 under rule 11 bis, and remain with the French judiciary.

61. The Office of the Prosecutor has also been continuing proceedings for the preservation of evidence under rule 71 bis in respect of the three top priority fugitives (Félicien Kabuga, Protais Mpiranya and Augustin Bizimana) who are earmarked for trial by the Residual Mechanism. It is expected that hearings in these proceedings will be concluded before the end of May 2012.

62. The Prosecutor has also commenced the updating and preparation of the files of the remaining fugitives for handover to the Residual Mechanism. The preparation will proceed up to the stage of drafting a pretrial brief and appropriately packaging the necessary disclosures in each case. This is intended to ensure a proper and smooth handover to the Residual Mechanism and to reduce the volume of its work. This will also ensure that the Office of the Prosecutor of the Residual Mechanism, with its limited staff capacity, is ready to proceed in each of the cases in the event of an arrest. Equally, it ensures that any Member State to which a case may be referred pursuant to rule 11 bis is fully briefed.

63. Commensurate with its efforts during the previous years and in spite of the reduction in its operational resources, the Investigation Section of the Office of the Prosecutor continues to streamline its strategy and strengthen its efforts to track down the remaining fugitives and cause their arrests. The main strategy is to reinforce cooperation with Member States, especially those in whose territories the fugitives are suspected to be hiding. In view of the overriding need for State cooperation in securing arrests, efforts have been geared at getting greater cooperation from intelligence, policing and prosecuting authorities in some of the Great Lakes States. Closer cooperation ties have been established with organizations like the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), the International Criminal Police Organization (INTERPOL) and the Secretariat of the Great Lakes Conference. In addition to tracking fugitives, the Investigation Section has also provided support to ongoing trials and appeals, to proceedings for the preservation of evidence, and to the management of witnesses. The function of tracking fugitives will move to the Residual Mechanism effective 1 July 2012.

64. The workload of the Information and Evidence Support Section of the Office of the Prosecutor has continued to increase as it grapples with the challenge of reliably meeting the significant increase in research activity of the Appeals and Legal Advisory Division. The Information and Evidence Support Section has continued its support to ongoing trials and appeals and to proceedings for the preservation of evidence. In addition, the Section is in the final phase in the preparation and archiving of the holdings of the Office of the Prosecutor and in consolidating related archiving regimes and security frameworks. In coordination with the International Tribunal for the Former Yugoslavia and the Archives and Records Management Section of the United Nations Secretariat, the Information and Evidence Support Section is also currently finalizing the preparation of digital and hard copy archives for migration to the Residual Mechanism.

65. The Appeals and Legal Advisory Division has been attending, among other matters, to the rule 11 bis litigation detailed above. Additionally, during this reporting period, the Division has been prosecuting or defending approximately 33 appeals from final judgements and sentences returned in 12 cases. It also has been actively preparing for four additional potential appeals in two cases (*Nizeyimana* and *Nzabonimana*) where Trial Chamber judgements are anticipated in

May/June 2012 and two potential appeals in a third case (*Ngirabatware*) where judgement is expected later in 2012. More particularly, in December 2011, the Division received Appeals Chamber judgements in two cases, comprising three separate appeals: *Bagosora et al.* case (two defence appeals) and *Ntawukulilyayo* case (defence appeal). Appeals Chamber judgements in three other cases, comprising four separate appeals, were delivered on 8 May 2012 in the *Ntabakuze* case (defence appeal), *Kanyarukiga* case (defence and prosecution appeals) and *Hategekimana* case (defence appeal).

66. During this reporting period, the Appeals and Legal Advisory Division also presented oral arguments before the Appeals Chamber in three other cases, comprising five separate appeals: the *Hategekimana* case (defence appeal), the *Kanyarukiga* case (defence and prosecution appeals), and the *Gatete* case (prosecution and defence appeals).

67. Briefing in connection with five other cases, comprising 23 separate appeals, is ongoing at this time. The cases in the active briefing stage are: *Military II* (four defence appeals and four prosecution appeals), *Butare* (six defence appeals and one prosecution appeal), *Government II* (two defence appeals), *Karamera et al.* (two defence and two prosecution appeals) and *Ndahimana* (defence and prosecution appeals).

68. In addition to appeals from final judgements and sentences, the Division has continued to work on interlocutory appeals, post-conviction review or reconsideration, and other collateral proceedings. Favourable Appeals Chamber judgements in three interlocutory appeals were received in three cases (*Ngirabatware, Uwinkindi* and *Nzabonimana*) during this period. Four applications for post-conviction review or reconsideration (*Ndindabahizi, Karera, Niyitegeka* and *Uwinkindi*) were denied during the .eporting period. Two additional post-conviction applications for review or reconsideration (*Kajelijeli* and *Nahimana*) remain pending before the Appeals Chamber at this time. In addition, one application for damages or compensation for the alleged violation of fundamental rights (*Zigiranyirazo*) was filed in the Trial Chamber during this period and remains pending at this time.

69. In anticipation of Trial Chamber judgements in the three remaining trials (*Nzabonimana, Nizeyimana* and *Ngirabatware*), Division attorneys are also preparing comprehensive appeal readiness reports. These reports will assist the appeals teams assigned to those cases in drafting legal advisories to assist the Prosecutor in determining whether to appeal any potential adverse judgements or rulings.

2. Cooperation of the Office of the Prosecutor with Member States

70. During the reporting period, there has been a positive signal for international cooperation against impunity and for accountability at the highest levels. Several Member States have continued to enhance their efforts to bring to trial, within their national jurisdictions, the Rwandan suspects appearing on the INTERPOL list of wanted fugitives. The continuous support by the Tribunal for such national efforts strengthens its legacy and ultimate objective to support and build the institutions of international law through the principle of complementarity. The Office of the Prosecutor continues therefore to provide mutual legal assistance and information to national prosecuting authorities, including Rwanda. As a result, requests to the

Prosecutor for information from the extensive database of the Office have increased substantially over the reporting period and are expected to continue to increase in the coming years. Within the current reporting period, the Office of the Prosecutor has responded to 44 requests received from 10 Member States. The Office of the Prosecutor has continued preparations for the establishment of a dedicated, efficient and experienced response mechanism for such requests that would quickly transfer to the jurisdiction of the Residual Mechanism on 1 July 2012.

71. Efforts at tracking the remaining fugitives continue, with a focus on the Democratic Republic of the Congo, the neighbouring Great Lakes countries and countries in the southern African region. Following the arrest of the fugitive Bernard Munyagishari on 25 May 2011 by the authorities of the Democratic Republic of the Congo in cooperation with officers of the tracking team of the Office of the Prosecutor, the Prosecutor is confident that the continued cooperation of the Democratic Republic of the Congo will facilitate the arrest of the majority of the fugitives who are still in that territory. The Prosecutor therefore continues to pursue efforts to visit that country once again to seek support at the highest levels for the efforts of the Office of the Prosecutor at tracking the fugitives in the country. Cooperation with and support from MONUSCO has also intensified in this regard.

72. The work of the joint Tribunal-Kenya Police Task Force, reactivated since November 2010, in respect of the tracking of the key fugitive Félicien Kabuga remains slow. The main issues still revolve around relevant and credible information of Félicien Kabuga's whereabouts within the country or adequate proof of his alleged departure from Kenya and the investigation and sequestering of his assets in the country. The Prosecutor continues to seek due diligence from Kenya in the discharge of its international obligations pursuant to Security Council resolution 1966 (2010) by expediting work on the tracking and arrest of this top-level fugitive.

73. Concerted efforts by Member States of the Great Lakes region in collaboration with the Tribunal hold the promise of arresting and bringing to account the remaining fugitives, thus substantially assisting the Prosecutor in meeting completion strategy targets. Such arrests would also reduce the responsibility of the Residual Mechanism for and costs related to tracking fugitives.

3. Staffing

74. Serious staffing challenges continue to plague the implementation of the completion strategy in the Office of the Prosecutor. Staff attrition has been most severe in relation to trials and the investigative support that they depend on. Due to the early abolition of posts, both the Prosecution Division and the Information and Evidence Support Section continued to see substantial staff losses. On the one hand, the Office of the Prosecutor has sought to reduce the impact of staff departures through temporary appointments. On the other hand, those efforts are handicapped by the unwillingness of potential candidates to join a closing institution and the limitations imposed by the rules governing temporary appointments. Challenges relating to fair trial rights and the implementation of the judicial calendar caused delays in the trial of Augustin Ngirabatware meaning that it could not be closed during 2011 as had been projected. Its spillover to 2012 has posed additional staffing challenges to the Office of the Prosecutor.

D. Cooperation between Member States and the Tribunal

75. Efficient cooperation with Member States remains a cornerstone of the Tribunal's success in completing its mandate. This relates in particular to ensuring the arrests of the remaining fugitives, the possible referral of cases to national jurisdictions, the transfer of convicts for the enforcement of their sentence, and the relocation of acquitted persons and persons who have served their sentence.

76. The Office of the Registrar maintained high-level diplomatic contacts with States and international organizations. Through formal and informal requests, it secured their cooperation to support the operations of the Tribunal. During the reporting period, there was an increased number of enquiries and requests for legal assistance with respect to ongoing trials and enforcement of sentences for those convicted by the Tribunal from Member States. The Office of the Registrar, through its External Relations and Strategic Planning Section, transmitted more than 230 notes verbales and other correspondence requesting judicial assistance and cooperation from Member States.

77. With respect to enforcement of sentences, during the reporting period, the Registry has transferred three persons convicted by the Tribunal to the Republic of Benin to serve the remainder of their sentences, while the transfer of one convicted person was put on hold for health reasons.

78. The Office of the Registrar, through the External Relations and Strategic Planning Section, has continued to request and obtain judicial assistance and cooperation from Member States on behalf of the defence teams.

79. Moreover, the President and Registrar continue to deploy all efforts to find host countries for the five acquitted persons who remain in the safe houses in Arusha under the Tribunal's protection. For one of those individuals, it has been more than five years since the confirmation of his acquittal by the Appeals Chamber. The challenge to relocation is the unfortunate result of the absence of a formal mechanism to secure the support of Member States to accept these persons within their territories. The statute is silent in this respect and the cooperation of Member States as required by article 28 of the statute does not extend to the relocation of acquitted persons. The Tribunal considers the resettlement of persons acquitted by an international criminal tribunal to be a fundamental expression of the rule of law and is concerned about the consequences of failing to fulfil this obligation. In the light of the imminent closure of the Tribunal, the insufficient level of voluntary Member State cooperation, the human rights implications of the delayed relocation of acquitted persons, and in spite of the assistance of the Office of the United Nations High Commissioner for Refugees, the Tribunal continues to call upon the assistance of the Security Council to find a sustainable solution to this issue.

80. The report on the work of the Office of the Prosecutor[15] highlights close cooperation with regard to the arrest of fugitives, preparation of referrals to national jurisdictions, and assistance to national prosecuting authorities.

---

[15] See paragraphs 70-73 above.

E. Outreach, capacity-building

81. The External Relations and Strategic Planning Section, through its Protocol Support Services, recorded a total number of 270 visitors, including high officials and members of the general public, academia, civil society and non-governmental organizations during the reporting period. Among the dignitaries welcomed to the Tribunal were the Norwegian Minister of Health, the Diplomatic Corps accredited to the Republic of Rwanda, and the President of the Community Court of Justice of the Economic Community of West African States.

82. The Information and Documentation Centres scattered across Rwanda remain the flagship initiative of the Tribunal's outreach programmes in Rwanda. Their activities are intensifying as part of the Tribunal's completion strategy and legacy. The main centre in Kigali, Umusanzu Centre, alone receives approximately 100 visitors per day. These visitors are mainly students, international and local researchers, legal professionals, and journalists.

83. From November 2011 to April 2012 with funds from the Department of Public Information of the United Nations Secretariat, awareness-raising programmes for lessons learned from the genocide of 1994 were successfully conducted in 15 secondary schools with students totalling 12,000. This programme is planned to continue with the major prisons in Rwanda where about 20,000 inmates are to benefit from this activity.

84. Capacity-building activities for legal professionals in Rwanda were continued during this reporting period. A group of eight senior prosecutors from the National Public Prosecution Authority of Rwanda and 34 students from the Faculty of Law of the Independent University of Kigali were trained in online legal research methodology, learning how to access legal information and materials including the Tribunal's jurisprudence.

85. In the context of the Tribunal's legacy and the Residual Mechanism, the Legal Library of the Tribunal has compiled a special bibliography containing all relevant literature on the work of the Tribunal. This publication on how the Tribunal inspired scholars, researchers, lawyers, historians and the international justice system during its lifetime is intended for researchers and future generations.

86. The Legal Library and Reference Unit set up two libraries in the prison quarters in Benin and Mali where Tribunal sentences are enforced. These libraries are aimed at providing opportunities for self-empowerment and education to the prisoners.

87. The Legal Library continued to widely distribute the 2011 version of the Tribunal's Basic Documents and Case Law DVD and CD-ROM worldwide, especially in Rwanda. The database is also full text and searchable and is available online from www.ictrcaselaw.org.

88. While realizing that, with the completion strategy, voluntary contributions have declined, the Gender Focal point continued to reach out to Member States in order to replenish the depleted Trust Fund for the Support Programme for Witnesses. The Government of Spain once again made a voluntary contribution towards sustaining the programme. The programme continued to provide physical and psychological care to witnesses residing in Rwanda and in particular the provision of antiretroviral drugs for those living with HIV/AIDS. The programme continues to

be implemented through the Witnesses and Victims Support Section's dedicated clinic located in Kigali.

F. Residual Mechanism

Ongoing preparatory work

89. By resolution 1966 (2010), the Security Council requested the Tribunal and the International Tribunal for the Former Yugoslavia to ensure a smooth transition to the Residual Mechanism and further asked the Secretary-General to make all practical arrangements for its effective functioning. The Tribunal, within its existing resources, continues to work closely with the Registrar of the Residual Mechanism to ensure timely commencement of the Arusha Branch on 1 July 2012. In this regard, since January 2012, the Tribunal has been working on the provision of a fully functional office space for the Residual Mechanism within the Tribunal's current premises; has supported the Residual Mechanism in staff recruitment and finance/budgetary matters; and has assisted it in establishing initial relations with the host country. The Registry has also shared information and know-how in the areas of witness support and protection and enforcement of sentences to facilitate the smooth transfer of these functions to the Residual Mechanism on 1 July 2012.

Transfer of archives

90. In accordance with the decision made at the meeting in September 2011 of the Joint Archives Strategy Working Group, the Tribunal has completed the review of all draft retention schedules of the International Tribunal for the Former Yugoslavia and, where possible, has harmonized its draft schedules with those of the latter. The International Criminal Tribunal for Rwanda submitted its draft retention schedule for all Office of the Prosecutor, Registry and Chambers-led functions to the Archives and Records Management Section for review and approval. The Office of the Prosecutor-led schedule was submitted on 19 November 2011, the Registry-led schedule was submitted on 10 February 2012, and the Chambers-led schedule was submitted on 13 March 2012.

91. The Tribunals have continued to work jointly on the finalization of the draft Secretary-General's Bulletin on information sensitivity, classification, handling and access for the records of the Tribunals and the Mechanism. The Secretary-General's Bulletin was finalized on 26 April 2012, and has been submitted to the Security Council Working Group and the General Legal Division of the Office of Legal Affairs for consultation.

92. The Tribunal's Digital Recordkeeping Consultancy was completed on 17 February 2012; the consultant has submitted an appraisal and assessment report on the digital records and recordkeeping systems of the Tribunal and a final digital information needs assessment report. These two reports have been used to develop the action plan for the Archives and Records Management Working Group, and will be used as the basis for the development and implementation of a digital recordkeeping strategy for the Tribunal which includes the secure and appropriate disposal of all digital records of the Tribunal.

93. The Tribunal has finalized its guidelines on the appraisal and disposal of records and the preparation of records for transfer to the archives. These guidelines,

in conjunction with the above-mentioned retention schedules, security and access policy and consultancy reports, have been used as the basis for a Tribunal-wide archives awareness-building workshop for all programme managers and designated archival focal points. The workshop was conducted on 3 and 4 May 2012.

94. The archives awareness-building workshop has provided all programme managers with the information required to ensure that the records of their offices are appropriately disposed of, and that the phased transfer of records of long-term to permanent value will begin as from the commencement date of the Residual Mechanism. The Archives and Records Management Working Group continues to provide oversight and technical assistance to the appraisal and disposal process, and the Tribunal is in the process of recruiting additional staff to assist in the records disposal process. The lack of appropriate storage space for the records of the Tribunal continues to pose significant challenges to the records disposal process.

95. The verification of the hard copy transcripts against the electronic versions is complete for all original transcripts created to date, and the rehousing of all 360 boxes of original transcripts has been completed. This represents approximately 40 per cent of all judicial records. The rehousing and metadata verification of all exhibits commenced on 5 March 2012, and approximately 5 per cent of the exhibits (890 exhibits) have been rehoused to date.

96. The digitization of the entire backlog (35,000 hours) of the audiovisual recordings of the trial proceedings was completed in August 2011, and the procedures for the digitization of all incoming audiovisual recordings have been developed and implemented. The redaction of the audio recordings is under way: 7,815 hours of recordings (2,605 hours of proceedings) have been redacted to date. This represents approximately 13 per cent of the total number of hours of recordings to be redacted. The recruitment process is under way for additional staff to complete the audiovisual redaction process.

III. Conclusion and updated prognosis regarding the implementation of the completion strategy

97. This reporting period marked a significant shift in the Tribunal's focus with respect to both judicial and administrative activities. In December 2011, the Tribunal completed its final multi-accused trial as projected and the Appeals Chamber upheld the decision to refer the first case from the Tribunal to Rwanda for trial. Since then, the focus on referrals has been significant — a further three cases of fugitive accused have been referred to Rwanda, and the Prosecutor has requested or will request three more referrals of fugitive cases before 30 June 2012. A decision on the application for referral of the final accused in pretrial custody is expected early in June, and, if that case is referred, barring any contempt of court/false testimony arrests, all trial work is expected to be completed by the end of 2012. Administrative energies are now more keenly focused on downsizing and providing the support necessary for the commencement of the Residual Mechanism on 1 July 2012, while still providing continued support for the remaining judicial and legal work of the Tribunal.

98. Before the end of June 2012, the Tribunal will deliver two further trial judgements, complete all evidence preservation hearings, and nearly all referral

applications will be disposed of. The arrangements necessary for handover of judicial responsibilities to the Residual Mechanism are mostly complete. The Tribunal has finalized guidelines for preparation of records for transfer to the Residual Mechanism, and the Prosecutor's selection as Prosecutor of the Residual Mechanism ensures a smooth transition of all prosecutorial tasks.

99. While it must be recalled that possibilities exist for the work of the Tribunal to increase in its final months, we are prepared to deal with the potential judicial activities slated to remain with the Tribunal after commencement of the Residual Mechanism. The trial of Bernard Munyagishari, if not referred, is expected to commence early in 2013 and could be completed by the end of 2013 or early in 2014. If arrests are made in the contempt/false testimony cases, each could also commence shortly after arrest and could be completed approximately six months from the start of trial.

100. However, on the basis of the current status of cases, in stark contrast to the report delivered only six months ago, we can now say that the Tribunal has a vastly reduced judicial workload. Thanks to the continued hard work and dedication of the staff, nearly all trial work is complete and only one trial judgement in an ongoing case will remain to be delivered in the second half of 2012. Moreover, despite minor setbacks in trial judgement projections, all appeal judgements remain on track for completion by the end of 2014.

101. As the remaining days of the Tribunal become fewer and the Residual Mechanism begins to take shape, the Tribunal will continue to ensure that knowledge gained and lessons learned are put to good use, both for creating the institution charged with continuing the residual functions of the Tribunals and for sharing best practices for closure of international legal institutions. Moreover, the efforts at capacity-building and education for the region will remain strong, so that the Tribunal's impact will not only be challenging impunity, but also helping to improve the means to dispense justice for an entire region.

Annex I.A

Trial judgements delivered as at 11 May 2012 (52 judgements concerning 72 accused)

Case No.	*Name*	*Former title*	*Initial appearance*	*Trial Chamber*	*Trial judgement*
1	J.-P. Akayesu	*Bourgmestre* of Taba	30 May 1996	I	2 September 1998
2	J. Kambanda	Prime Minister	1 May 1998	I	4 September 1998 (guilty plea)
3	O. Serushago	Businessman, *Interahamwe* leader	14 December 1998	I	5 February 1999 (guilty plea)
4	C. Kayishema	*Préfet* of Kibuye	31 May 1996	II	21 May 1999 (joinder)
	O. Ruzindana	Businessman	29 October 1996		
5	G. Rutaganda	Businessman, Second Vice-President of *Interahamwe*	30 May 1996	I	6 December 1999
6	A. Musema	Businessman	18 November 1997	I	27 January 2000
7	G. Ruggiu	Journalist, Radio-télévision libre des mille collines (RTLM)	24 October 1997	I	1 June 2000 (guilty plea)
8	I. Bagilishema	*Bourgmestre* of Mabanza	1 April 1999	I	7 June 2001
9	G. Ntakirutimana	Doctor	2 December 1996	I	21 February 2003 (joinder)
	E. Ntakirutimana	Pastor	31 March 2000		
10	L. Semanza	*Bourgmestre* of Bicumbi	16 February 1998	III	15 May 2003
11	E. Niyitegeka	Minister of Information	15 April 1999	I	15 May 2003
12	J. Kajelijeli	*Bourgmestre* of Mukingo	19 April 1999	II	1 December 2003
13	F. Nahimana	RTLM Director	19 February 1997	I	*Media* case (joinder) 3 December 2003
	H. Ngeze	Kangura Editor	19 November 1997		
	J.-B. Barayagwiza	Director, Ministry of Foreign Affairs	23 February 1998		
14	J. Kamuhanda	Minister of Culture and Education	24 March 2000	II	22 January 2004
15	A. Ntagerura	Minister of Transport	20 February 1997	III	*Cyangugu* case (joinder) 25 February 2004
	E. Bagambiki	*Préfet* of Cyangugu	19 April 1999		
	S. Imanishimwe	Lieutenant, Forces armées rwandaises	27 November 1997		

Case No.	*Name*	*Former title*	*Initial appearance*	*Trial Chamber*	*Trial judgement*
16	S. Gacumbitsi	*Bourgmestre* of Rusumo	20 June 2001	III	17 June 2004
17	E. Ndindabahizi	Minister of Finance	19 October 2001	I	15 July 2004
18	V. Rutaganira	*Conseiller* of Mubuga	26 March 2002	III	14 March 2005 (guilty plea)
19	M. Muhimana	*Conseiller* of Gishyita	24 November 1999	III	28 April 2005
20	A. Simba	Lieutenant-Colonel, Forces armées rwandaises	18 March 2002	I	13 December 2005
21	P. Bisengimana	*Bourgmestre* of Gikoro	18 March 2002	II	13 April 2006 (guilty plea)
22	J. Serugendo	Technical Director, RTLM	30 September 2005	I	12 June 2006 (guilty plea)
23	J. Mpambara	*Bourgmestre* of Rukara	8 August 2001	I	12 September 2006
24	T. Muvunyi	Interim Commander, École des sous-officiers	8 November 2000	II	12 September 2006
25	A. Rwamakuba	Minister of Education	7 April 1999	III	20 September 2006
26	A. Seromba	Priest, Kivumu *commune*	8 February 2002	III	13 December 2006
27	J. Nzabirinda	Youth organizer	27 March 2002	III	23 February 2007 (guilty plea)
28	J. Rugambarara	*Bourgmestre* of Bicumbi	15 August 2003	II	16 November 2007 (guilty plea)
29	GAA	Witness before Tribunal proceedings	10 August 2007	III	4 December 2007 (contempt of Tribunal)
30	F. Karera	*Préfet* of Kigali	26 October 2001	I	7 December 2007
31	S. Nchamihigo	Deputy Prosecutor of Cyangugu	29 June 2001	III	24 September 2008
32	S. Bikindi	Musician	4 April 2002	III	2 December 2008
33	P. Zigiranyirazo	Businessman	10 October 2001	III	18 December 2008
34	T. Bagosora	Director of Cabinet, Ministry of Defence	20 February 1997	I	*Military I* case (joinder) 18 December 2008
	G. Kabiligi	Brigadier-General, Forces armées rwandaises	17 February 1998		
	A. Ntabakuze	Battalion Commander, Forces armées rwandaises	24 October 1997		

Case No.	*Name*	*Former title*	*Initial appearance*	*Trial Chamber*	*Trial judgement*
	A. Nsengiyumva	Lieutenant Colonel, Forces armées rwandaises	19 February 1997		
35	E. Rukundo	Chaplain	26 September 2001	II	27 February 2009
36	C. Kalimanzira	*Directeur de Cabinet* of the Ministry of the Interior	14 November 2005	III	22 June 2009
37	L. Nshogoza	Former Defence Investigator	11 February 2008	III	2 July 2009 (contempt of court case)
38	T. Renzaho	*Préfet* of Kigali-*Ville*	21 November 2002	I	14 July 2009
39	M. Bagaragaza	Director General of Government Office Controlling the Tea Industry	16 August 2005	III	5 November 2009 (guilty plea)
40	H. Nsengimana	Rector, Christ-Roi College	16 April 2002	I	17 November 2009
41	T. Muvunyi	Interim Commander, École des sous-officiers Camp	8 November 2000	III	11 February 2010 (retrial)
42	E. Setako	Lieutenant Colonel	22 November 2004	I	25 February 2010
43	Y. Munyakazi	*Interahamwe* leader	12 May 2004	I	30 June 2010
44	D. Ntawukulilyayo	*Sous-préfet* of Butare *préfecture*	10 June 2008	III	3 August 2010
45	G. Kanyarukiga	Businessman	22 July 2004	II	1 November 2010
46	I. Hategekimana	Lieutenant, Commander of Ngoma Camp, Butare	28 February 2003	II	1 December 2010
47	J.-B. Gatete	*Bourgmestre* of Murambi	20 September 2002	III	29 March 2011
48	A. Ndindiliyimana	Chief of Staff of Gendarmerie	27 April 2000	II	*Military II* case (joinder) 17 May 2011
	F.-X. Nzuwonemeye	Battalion Commander, Forces armées rwandaises	25 May 2000		
	I. Saguhutu	Second-in-Command, Reconnaissance Battalion	28 November 2000		
	A. Bizimungu	Chief of Staff, Forces armées rwandaises	21 August 2002		
49	P. Nyiramasuhuko	Minister of Family and Women's Affairs	3 September 1997	II	*Butare* case (joinder) 24 June 2011
	A. S. Ntahobali	*Interahamwe* leader	17 October 1997		
	S. Nsabimana	*Préfet* of Butare	24 October 1997		

Case No	*Name*	*Former title*	*Initial appearance*	*Trial Chamber*	*Trial judgement*
	A. Nteziryayo	*Préfet* of Butare	17 August 1998		
	J. Kanyabashi	*Bourgmestre* of Ngoma	29 November 1996		
	E. Ndayambaje	*Bourgmestre* of Muganza	29 November 1996		
50	C. Bizimungu	Minister of Health	3 September 1999	II	*Bizimungu et al.* case (joinder) 30 September 2011
	J. Mugenzi	Minister of Commerce	17 August 1999		
	J. Bicamumpaka	Minister of Foreign Affairs	17 August 1999		
	P. Mugiraneza	Minister of Civil Service	17 August 1999		
51	G. Ndahimana	*Bourgmestre* of Kivumu	28 September 2009	III	17 November 2011
52	E. Karemera	Minister of the Interior, Vice-President of Mouvement républicain national pour le développement et la démocratie (MRND)	7 April 1999	III	*Karemera et. al.* case (joinder — third accused J. Nzirorera died on 1 July 2010) 21 December 2011
	M. Ngirumpatse	General Director at Ministry of Foreign Affairs, President of MRND	7 April 1999		

Annex I.B

Cases where trial judgement delivery is awaited: 2 cases concerning 2 accused

Case No.	*Name*	*Former title*	*Initial appearance*	*Trial Chamber*	*Comments*
53	C. Nzabonimana	Minister of Youth in the Interim Government	20 February 2008	III	Started on 9 November 2009. Closing arguments were heard on 20 and 21 October 2011. Judgement delivery scheduled 31 May 2012.
54	I. Nizeyimana	Second-in-Command, École des sous-officiers	14 October 2009; further appearances 5 March 2010 and 7 October 2010	III	Started on 17 January 2011. Closing arguments were heard on 7 and 8 December 2011. Judgement delivery scheduled 19 June 2012.

Annex I.C

Ongoing trials: 1 case concerning 1 accused

Case No.	*Name*	*Former title*	*Initial appearance*	*Trial Chamber*	*Comment*
55	A. Ngirabatware	Minister in the Interim Government	10 October 2008; further appearance on 9 February 2009	II	Started on 31 August 2009. Completion expected first half of 2012. Judgement expected second half of 2012.

Annex II

Referrals pursuant to rule 11 bis for apprehended accused: 4 cases concerning 4 accused — 3 referred, 1 pending

Case No.	*Name*	*Former title*	*Initial appearance*	*Trial Chamber*	*Status*
56	W. Munyeshyaka	Clergy	— (arrested in France)	—	Case transferred to France on 20 November 2007.
57	L. Bucyibaruta	*Préfet* of Gikongoro *préfecture*	— (arrested in France)	—	Case transferred to France on 20 November 2007.
58	J. Uwinkindi	Pastor, Nyamata	9 July 2010	III	Motion for referral to a national jurisdiction granted, confirmed on appeal on 16 December 2011. Transferred to Rwanda on 19 April 2012.
59	B. Munyagishari	Former President of *Interahamwe* for Gisenyi	20 June 2011	III	Motion for referral to a national jurisdiction pending; trial chamber decision expected June 2012.

Annex III

Fugitives indicted by the Tribunal

Fugitive name	*Status as at 11 May 2012*
Augustin Bizimana	Residual Mechanism will be responsible for trial when arrested
Félicien Kabuga	Residual Mechanism will be responsible for trial when arrested
Protais Mpiranya	Residual Mechanism will be responsible for trial when arrested
Ladislas Ntaganzwa	Fugitive accused case referred to Rwanda
Fulgence Kayishema	Fugitive accused case referred to Rwanda
Charles Sikubwabo	Fugitive accused case referred to Rwanda
Aloys Ndimbati	Application for referral of fugitive accused case to Rwanda pending
Charles Ryandikayo	Application for referral of fugitive accused case to Rwanda pending
Phénéas Munyarugarama	Application for referral of fugitive accused case to a national jurisdiction expected imminently